IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.23347 of 1998

Between:

The Vice-President,
M/s. Orient Cement, Devapur-504218,
Adilabad.

..... PETITIONER

AND

1 The Industrial Tribunal-I, Rep. Presiding Officer.
Chandravihar Building, Moazamjahi Market,
Hyderabad.
2 The General Secretary,
M/s. Orient Cement Employees, Federation, Devapur-504 218.
Adilabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the 1st respondent and quash the award passed in I.D.No.74 of 1995 dated 06/03/1997 passed by the 1st respondent and published on 25/04/97 and pass such further or other orders as this Court deems fit and proper.

Counsel for the Petitioner: Mr. K.SRINIVASA MURTHY

Counsel for Respondent No.2: Mr. G.VIDYASAGAR

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the Management being aggrieved by the Award dated 6-3-1997 made in I.D.No.74 of 1995 on the file of the Industrial Tribunal-I, Hyderabad.

It is the case of the petitioner-management that one K. Narendar Rao (workman) working as a Clerk in its organization failed to discharge his duties properly. Further, after some time, he failed to attend the Office completely. When he came to office, he signed in attendance register even for the days he was absent. Thus, without any work rendered by him, he demanded the wages. The company, on the principle of 'no work no pay' had not chosen to pay the wages from 1-6-1992 to 9-10-1993. The workman through the 2nd respondent-union has raised a dispute and the same was referred to the Tribunal for adjudication of the following issue:

> "Whether Sri K. Narender Rao, Clerk of Orient Cement Co., who was on the rolls of the limestone mines of Orient Cement, Devapur and worked for the period from 1-6-1992 to 9-10-1993. If worked, for how many days wages he is entitled to ? If not, to what relief he is entitled to ?"

The Labour Court, according to the petitioner, without there being any acceptable evidence answered the issue in favour of the workman and directed the management to pay wages from 1-6-1992 to 9-10-1993. It is also the case of the petitioner that the management though filed appearance, it was set *ex parte* and they have no opportunity to participate in the proceedings. Therefore, this Writ Petition.

A detailed counter affidavit has been filed on behalf of the 2nd respondent denying the allegations made by the petitioner and supporting the Award passed by the Tribunal.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Award.

At the outset, I am of the opinion that the Tribunal has not committed any error whatsoever in passing the impugned Award requiring the interference of this Court under Article 226 of the Constitution of India. The management for the reasons best known to it, has remained *ex parte,* though initially appearance was filed on its behalf. They have not made any efforts before the Tribunal to get the *ex parte* order set aside. The workman adduced evidence before the Tribunal and on considering the same, the claim of the workman was allowed.

Now, in this Writ Petition, the reason furnished by the petitioner-management is that since the Union had given an oral assurance that it is not going to press the dispute, they have not attended the Tribunal and not taken any steps. This seems to be nothing but an afterthought. The dispute was raised and it was referred to the Tribunal for adjudication and when the workman filed his claim statement etc., it cannot be expected that on an oral assurance purported to have been given by the union, they have not pursued the matter. Even as of now, there is no evidence to show that the respondent-union had given any undertaking that it will not pursue the matter. Therefore, the explanation offered by the petitioner cannot be accepted. It is also stated in the writ affidavit that the respondent-workman was signing for all the days of the month on one day and that way he has signed for more than 15 months, which cannot be believed by any stretch of imagination. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

11-8-2005

prk